M

LEGAL (1948) Department

SERIES.

G.O. No.

Dated 12th April 1948

[Despatch Abstract.]

Acts - The Madras Suppression of Disturbances Act, 1948 - Publication ordered as Madras Act III of 1948.

GOVERNMENT OF MADRAS

(Abstract)

Acts - The Madras Suppression of Disturbances Act, 1948 - Publication Ordered as Madras Act III of 1948.

Legal Department

G.O.Ms.No.75, Dated 12th April 1948.

Order:-

The Madras Suppression of Disturbances Act, 1948, will be published in the Fort St. George Gazette in English and in the Tamil, Telugu, Malayalam, Kannada and Hindustani languages as Madras Act III of 1948.

(By Order of His Excellency the Governor)

P. V. Balakrishna Iyer,
Secretary to Government.

To the Superintendent, Government Press
To the Senior Translator to Government
To the Public Department
To the Secretary, Madras Legislature
To the Private Secretary to His Excellency the Governor.

Appendix

The following Act of the Madras Legislature received the assent of His Excellency the Governor-General on the 7th April 1948 and is hereby published for general information:--

ACT NO.III OF 1948

An Act to make better provision for the suppression of disorder in the Province of Madras.

WHEREAS it is expedient to make better provision for the suppression of disorder in the Province of Madras; it is hereby enacted as follows:--

1. (1) This Act may be called the Madras Suppression of Disturbances Act, 1948. — Short title, extent and commencement.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

2. In this Act, "disturbed area" means an area for the time being declared to be a disturbed area by a notification under section 3. — Definitions

3. The Provincial Government may, by notification in the Fort St. George Gazette-- — Power to declare areas to be disturbed areas

(a) declare that the whole of the Province, or any part thereof specified in the notification, is a disturbed area; and

(b) add to, amend, vary or rescind any such declaration.

p.t.o.

Certain offences to be punishable with death in disturbed areas.

4. (1) Whoever in a disturbed area commits any offence punishable under any of the following sections of the Indian Penal Code, namely, 307, 363, 364, 365, 366, 367, 368, ~~369~~ 376, 392, 394, 395, 397 398 and 436 may, in lieu of the punishment to which he is liable under that Code, be punished with death. Central Act XLV of 1860.

(2) Whoever in a disturbed area attempts to commit, or abets the commission of, any offence punishable under any section of the Indian Penal Code referred to in sub-section (1) may, notwithstanding anything contained in that Code, be punished with death or with the punishment provided in that section for the offence. Central Act XLV of 1860.

Power to fire upon persons contravening certain orders in disturbed areas.

5. Any Magistrate, and any Police Officer, not below the rank of Sub-Inspector, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, if any, as he may consider necessary, fire upon, order fire to be opened or otherwise use force, even to the causing of death, against any person who in a disturbed area is acting in contravention of any law or order for the time being in force in such area, prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons.

Protection of persons acting under section 5.

6. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Provincial Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 5.

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p.t.o.

(iii) the proceedings of the Legislature relating to the Bill.

6. I am to request that the assent of His Excellency the Governor-General may kindly be obtained and the authentic copy of the Bill with the assent of His Excellency the Governor-General recorded thereon may be returned to this Government at a very early date.

Yours Obedient Servant

Sd/ ** **
Secretary to Govt.

(True copy)

Office Assistant,
Madras Record Office.

aj/22.12

GOVERNMENT OF MADRAS
Legal Department

Letter No.2260 - 4.

From

Sri P.V. Balakrishna Ayyar,
Secretary to the Government of Madras,
Legal Department

To

The Secretary to the Government of India,
Ministry of Home Affairs,
NEW DELHI

Dated Fort St. George the 17th March 1948.

Sir,

The Madras Suppression of Disturbances Bill, 1948.

I am directed to say that His Excellency the Governor has reserved the Madras suppression of Disturbances Bill, 1948, which was recently passed by the Madras Legislature, for the consideration of His Excellency the Governor-General. The authentic copy of the Bill bearing the appropriate endorsements made by the Speaker, the President and His Excellency the Governor is enclosed.

2. The Bill was published in Part IV-A of the Fort St. George Gazette, dated the 18th November 1947. It was introduced in the Madras Legislative Assembly on the 17th February 1948 and was passed into law with some amendments on the 18th February 1948. The Bill as passed by the Assembly was passed by the Madras Legislative Council on the 23rd February 1948, without amendment.

3. The subject matter of the Bill falls under Entry 1 of the Provincial Legislative List, viz., "Public Order" and Entry 1 of the Concurrent Legislative List, viz., "Criminal Law".

4. Clause 4 of the Bill specifically overrides the Indian Penal Code and makes certain offences punishable with death which are not so punishable under the Code. It is therefore repugnant to the Penal Code which is the existing law on the concurrent subject of "Criminal law".

Clause 6 which lays down that no prosecution, suit or other legal proceeding may be instituted without the previous sanction of Government may be said to be repugnant to the existing laws on the concurrent subjects of the Criminal and Civil Procedure.

5. I am to enclose a memorandum explain the scope of the Bill and embodying a summary of the proceedings of the Legislature. I am also to enclose 5 copies of each of the following papers:-

(i) the Bill as published and introduced in the Legislature;

(ii) the Bill as passed by the Legislature; and

p.t.o.